IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7281 OF 2004

Murgharajendra Sahakari Bank Ltd,
Miraj, Dist-Sangli .. Petitioner.

Vs

1. Ramchandra Banboda Tambavekar
and ors. .. Respondents

Mr V.B.Rajure, for the petitioner.

Mr S.S.Patwardhan, for respondent no.13.

CORAM : D.B.BHOSALE,J.

DATE : 7th September, 2004

PC:

1. Heard the learned counsel for the parties.

2. There is no dispute that the charge of respondent no. 13-Bank had been entered into the property card of C.S.No.1134 on 15.9.1983 and 31.1.1995 which was much prior to the charge created in favour of the petitioner-Bank. In view thereof, the Co-operative Court, while allowing the dispute filed by the petitioner-Bank, in paragraph 3 of the operative part of the Award made it clear that the petitioner-disputant is at liberty to enforce its right against the mortgaged property subject to the right of respondent no.13 in whose favour the charge was created prior in time by respondent nos 1 to 11. These directions incorporated

in paragraph 3 of the operative part of the order passed by the Co-operative Court dated 25.4.2003 were carried by the petitioner in appeal to the Co-operative Appellate Court, which affirmed the order and dismissed the appeal.

3. Mr.Rajure, learned counsel for the petitioner, could not and did not dispute that the charge of respondent no.13 over the mortgaged property was prior in time and, therefore, I do not find any infirmity in the orders of the Courts below. The petition, therefore, fails and is accordingly dismissed.

(D.B.Bhosale,J.)